

REMARKS

Claims 1-7 and 9-16 are all the claims pending in the application. Claim 8 was withdrawn from examination pursuant to a previous restriction requirement. Claims 2-7 and 9-16 have been amended. No new matter has been introduced.

I. Allowable Subject Matter

Applicants thank the Examiner for indicating that the pending claims are allowable over the prior art of record.

II. Objections to Specification

The Examiner has objected to specification because it allegedly fails to provide antecedent basis to claim terms “first level” and “second level” recited in the pending claims. In response, Applicants amend paragraph 128 of the specification to refer to the level of underlying determined at (or around) First Reference Time as first level and the level of the underlying determined at (or around) Second Reference Time as second level. Applicants respectfully submit that this amendment does not constitute new matter because the added subject matter was disclosed in the original claims and that said amendment fully overcomes the Examiner’s objection.

The specification is further amended to include the language of claims 1 and 16 that was previously either express or inherent.

III. Claim Rejections – 35 U.S.C. § 112

Claims 2-7 and 9-16 are rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully traverses this rejection in view of Applicant’s amendments to claims 2-7 and 9-16 and further in view of the following arguments.

Specifically, the Examiner states that word “substantially” recited in claims 2-7 and 9 renders the claimed subject matter indefinite. In response, without admitting that the subject matter of the aforesaid claims is in fact indefinite, Applicants cancel the aforesaid word “substantially” from claims 2-7 and 9, without prejudice. Thus, the amended claims 2-7 and 9 are believed to be allowable.

With respect to claims 10-16, Applicants clarify that the contact must include at least one term recited in the respective parent claims. Applicants respectfully submit that the aforesaid amendments overcome the Examiner’s rejection of claims 10-16 under 35 U.S.C. § 112 and the aforesaid claims are allowable.

IV. Claim Rejections – 35 U.S.C. § 101

Claim 16 is rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. In response, Applicants respectfully traverse this rejection in view of Applicant’s amendments to claim 16 and further in view of the following arguments.

Specifically, claims 16 has been amended to recite a computer readable medium embodying a set of computer-executable instructions, which, when executed by one or more processors cause the one more processors to perform a method for submitting trade order information relating to a standardized contract. At the outset, Applicants respectfully submit that the recited set of computer-executable instructions that cause one or more processors to perform a method for submitting trade order is clearly a functional descriptive material because it “consists of ... computer programs which impart functionality when employed as a computer component,” see Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, USPTO Official Gazette Notices, 22 November, 2005. As recited in claim 16, the aforesaid functionality is computer-based submission of a trade order information relating to

a standardized contract. Applicant call the Examiner's attention to the definitions of the functional and non-functional description materials appearing in the aforesaid Guidelines:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

The claimed set of computer-executable instructions that cause one or more processors to perform a method for submitting trade order is clearly not music, literary works and a compilation or mere arrangement of data. The trade order submission recited in claim 16 is clearly a functionality performed by a processor and, therefore, the recited set of computer-executable instructions is a functional descriptive material, see the above quoted definition thereof.

The aforesaid Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility further state that:

When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. ... a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Thus, because claim 16 recites a functional descriptive material encoded on a computer-readable medium, the amended claim 16 is clearly statutory, see the aforesaid Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, USPTO Official Gazette Notices, 22 November, 2005. Accordingly, the amended claim 16 is allowable.

V. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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